

CALIFORNIA FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to Amend Section 27.80
Title 14, California Code of Regulations
Re: Ocean Salmon Recreational Fishing
Conformance with Federal Regulations

I. Statement of Facts Constituting the Need for Emergency Regulatory Action:

The Pacific Fishery Management Council (PFMC) has determined that the Klamath River fall chinook stock is at extremely low ocean abundance in 2006. This determination, coupled with above-average Klamath River fall chinook impacts in the 2005 fall commercial and recreational fisheries, means the stock will not meet the PFMC Salmon Fishery Management Plan (FMP) natural spawner escapement goal of a minimum of 35,000 adults spawning in natural areas each year. Thus, even with no further fishing of this stock in the ocean and river fisheries in 2006, the expected number of natural spawners would be 29,200.

The PFMC has determined that conditions this year allowed for the FMP natural spawner escapement goal to be temporarily set at 21,000 without compromising the long-term productivity of the stock. In response, on April 7, 2006, the PFMC provided a recommendation for a limited 2006 ocean salmon season to the National Marine Fisheries Service (NMFS). On April 28, 2006, the NMFS accepted the PFMC recommendation and approved an emergency rule to allow limited salmon fishing along the Oregon and California coasts. These regulations opened the ocean salmon fishery in federal waters on May 1, 2006. The Fish and Game Commission adopted the federal ocean salmon regulations for the state waters off California on May 4, 2006.

The proposed regulatory action requires amendment of the regulations of Section 27.80, Title 14, CCR, which describe the 2005 season and 2006 opening dates for recreational ocean salmon fishing in the ocean waters off California. This regulatory action adopts the PFMC 2006 season and 2007 opening dates for state waters. The changes for each management area are listed in the following paragraphs:

The waters north of Horse Mountain and in Humboldt Bay will be open on May 15 through July 4 and September 1 to 6. The 2007 season opener will be decided in April 2007 by the PFMC and the Commission and the section will be amended pursuant to the regulatory process.

The waters between Horse Mountain and Point Arena opened on February 18, 2006. The 2006 season will run from February 18 through June 4, June 7 through June 11, June 14 through June 18, June 21 through June 25, 2006, June 28 through July 9, July 15 through July 16, July 22 through July 23, and July 26, 2006 through November 12, 2006. The 2007 season will open on February 17, 2007.

The waters between Point Arena and Pigeon Point opened on April 1, 2006. The 2006 season will run from April 1 through June 11, June 14 through July 9, and July 12 through November 12. The 2007 season will open on April 7, 2007.

The waters between Pigeon Point and Point Sur opened on April 1, 2006. The 2006 season will run from April 1 through September 24. The 2007 season will open on April 7, 2007.

The waters below Point Sur opened on April 1, 2006. The 2006 season will run from April 1 through September 24. The 2007 season will open on April 7, 2007.

Emergency action is necessary to conform Section 27.80, Title 14, CCR, to the federal regulations to avoid a substantial and adverse effect on the FMP and the Klamath River natural spawners. In order to continue having state jurisdiction over this fishery pursuant to the Magnuson Fisheries Conservation and Management Act (16 U.S.C. Section 1856), the state is obligated to conform to the federal regulations.

The normal rulemaking process will not provide sufficient time for submission, review, and filing of the conforming regulations with the Secretary of State as soon as possible after May 1. The lack of emergency action would result in different state and federal regulations governing ocean salmon recreational fishing in waters off California, creating confusion for the public and uncertainty regarding enforcement of ocean salmon regulations, and compromising the long-term productivity of the Klamath River fall chinook stock.

Minor changes have been made to improve the clarity of the regulations.

II. Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

III. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

Recreational ocean salmon fishing takes place primarily in two modes, (1) anglers fishing from privately owned boats, and (2) anglers employing the services of the charter or party boat fleet. In general, success rates on charter vessels tend to be higher than success rates on private vessels. Nonetheless,

there are small amounts of shore-based effort directed toward ocean area salmon, primarily fishing occurring off jetties and piers.

Summary information for year 2004 recreational catches of salmon indicates that 222,538 salmon were landed by anglers in California. (Review of 2005 Ocean Salmon Fisheries, PFMC 2006). Just in the California counties north of Santa Barbara County*, the number of ocean fishing trips taken by anglers in year 2004, specifically to catch ocean salmon, totaled 248,000, detailed as follows: 36,000 trips taken on piers or manmade structures, 65,000 trips on party or charter boats, and 147,000 trips taken on personal or private boats. (CRFS 2004).

The year 2004 trip related direct expenditures, by these ocean salmon anglers, are estimated to be approximately \$15,784,000 (in year 2005 dollars), detailed as follows: \$1,779,518 by anglers using manmade structures, \$7,424,805 by anglers using charter boats, and \$6,579,899 by anglers using private boats. These annual trip expenditures cover items like: private transportation, charter fees, food, public transportation, boat fuel, lodging, bait and ice, equipment, and launch fees (in order of greatest to least amount expended). Note, however, these expenditures do not include annual expenses for durable or big-ticket items assumed to last more than one season or be used in catching fish species other than ocean salmon. Since recreational fishing in California produces ripple effects in the State's economy, meaning that each dollar spent on recreational fishing helps fuel the State's economy by stimulating additional activity in the form of jobs, income, and output, we adjust these direct expenditure projections to a total output estimate of \$21,038,742 (in 2005 dollars).

Estimated Ocean Salmon Angler Annual Trip Expenditures, By District And Fishing Mode, From January-December 2004, Presented in 2005 dollars. (CRFS 2006)				
California Coastal District	Fishing Mode			Totals
	Manmade Structure	Party/Charter Boat	Private Boat	
Central (San Luis Obispo County - Santa Cruz County)	\$0	\$1,941,872	\$1,700,926	\$3,642,798
Bay Area (Marin County - San Mateo County)	1,433,501	3,997,972	2,461,867	7,893,340
Wine (Sonoma County - Mendocino County)	0	1,142,278	984,747	2,127,025
Redwood (Humboldt County - Del Norte County)	346,017	342,683	1,432,359	2,121,059
Total Direct Expenditures	\$1,779,518	\$7,424,805	\$6,579,899	\$15,784,222
Total Direct, Indirect, and Induced Output Estimate for the State				\$21,038,742

As shown in the table above, the majority of recreational angler expenditures in targeting ocean salmon were in the charter boat mode of fishing. As of January 2006, there were 451 California Commercial Passenger Fishing Vessel permits (party boat permits) issued for the 2005-2006 season which runs April through March. All of these party boats are classified as Small Businesses under the definitions established in California Government Code Section 11342.610. However, not all party boats participate in the ocean salmon fishery. In year 2005, the total number of party boats participating in the ocean recreational salmon fishery was 105, with only 76 of those considered to be actively

participating in the ocean salmon fishery. (Review of 2005 Ocean Salmon Fisheries, PFMC 2006).

*The length of coastline impacted by a proposed 2006 federal salmon closure extends from Del Norte County through Monterey County, or about 405.6 nautical miles of California coastline. Due to the way in which angling data is divided into districts, the above impact analyses will tend to be overstated. This is because the geographic range of California counties north of Santa Barbara County covers about 513.1 nautical miles of coast. Thus, the actual maximum impact area covers only 80% of the coastline areas included in the analyses.

This proposal would result in a 5.12 percent reduction in the available days of ocean salmon fishing. On a pro-rata basis, reducing the estimated business output for merchants that provide goods and services to salmon anglers in the State by this same percentage would result in a reduction of \$1,077,456 in total economic output for businesses.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

This proposal would result in a 5.12 percent reduction in the available days of ocean salmon fishing. On a pro-rata basis, the estimated employment impacts could result in a reduction of 10.0 jobs in businesses that provide goods and services to anglers.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new reporting requirements imposed as a result of the proposed regulations.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

There are no new reporting requirements to State agencies as a result of the proposed regulations. However, reduced recreational fishing opportunities would likely result in revenue impacts to the State government, estimated to be about \$40,000 to \$105,000. This is due to reduced demand for recreational fishing licenses, permits, and or stamps, normally purchased from the State during the 2006 ocean salmon season.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None

IV. Plain English Statement:

It has been determined that the amendment of these regulations may affect small businesses. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342(e) and 11346.2(a)(1).

V. Authority and Reference:

The Fish and Game Commission proposes this emergency action pursuant to the authority vested by sections 200, 202, 205, 220, 240, 316.5, and 2084 of the Fish and Game Code and to implement, interpret, or make specific sections 200, 202, 205, 316.5, and 2084 of said Code.

VI. Section 240 Finding:

Pursuant to Section 240 of the Fish and Game Code, the Commission made the finding that the adoption of this regulation is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

VII. Documents Relied Upon for Rulemaking:

PFMC, 2006, *Preseason Report III: Analysis of Adopted Management Measures for 2006 Ocean Salmon Fisheries*, PFMC, 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220-1384, .

National Oceanic and Atmospheric Administration News Release, April 28, 2006, *National Marine Fisheries Service Accepts Pacific Council's Salmon Recommendations*, NOAA, Washington DC.

Informative Digest (Plain English Overview)

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